

## Surface Mining Reclamation and Enforcement, Interior

## § 879.11

### § 877.14 Entry for emergency reclamation.

(a) OSM, its agents, employees, or contractors shall have the right to enter upon any land where an emergency exists and on any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary to protect the public health, safety, or general welfare.

(b) Prior to entry under this section, OSM shall make a written finding with supporting reasons that the situation qualifies as an emergency in accordance with the requirements set out in section 410 of the Act.

(c) Notice to the owner shall not be required prior to entry for emergency reclamation. OSM shall make reasonable efforts to notify the owner and obtain consent prior to entry, consistent with the emergency conditions that exist. Written notice shall be given to the owner as soon after entry as practical in accordance with the requirements set out in § 877.13(c) of this chapter.

## PART 879—ACQUISITION, MANAGEMENT, AND DISPOSITION OF LANDS AND WATER

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 47 FR 28597, June 30, 1982, unless otherwise noted.

### § 879.1 Scope.

This part establishes procedures for acquisition of eligible land and water resources for emergency abatement activities and reclamation purposes by you, a State or Indian tribe, with an approved reclamation program that has not certified completion of coal reclamation or a certified State or Indian tribe conducting noncoal reclamation activities under part 875 of this chapter, or by us. It also provides pro-

cedures for the management and disposition of lands acquired by the State, the Indian tribe, or us. For certified States or Indian tribes conducting noncoal reclamation projects under the provisions of part 875, the term “noncoal” replaces all references to “coal” in this part.

[80 FR 6446, Feb. 5, 2015]

### § 879.5 Definitions.

As used in this part—

*Reclamation plan* or *State reclamation plan* means a plan that a State or Indian tribe submitted and that we approved under section 405 of SMCRA and part 884 of this chapter.

[73 FR 67641, Nov. 14, 2008]

### § 879.11 Land eligible for acquisition.

(a)(1) We may acquire land adversely affected by past coal mining practices with moneys from the Fund.

(2) You, an uncertified State or Indian tribe or a certified State or Indian tribe conducting noncoal reclamation projects under part 875 of this chapter, may acquire land adversely affected by past coal mining practices with moneys from the Fund or with prior balance replacement funds and certified in lieu funds provided under §§ 872.29 and 872.32 of this chapter, provided that we first approve the acquisition in writing.

(3) Before acquiring land under paragraph (a)(1) of this section or approving land acquisition under paragraph (a)(2) of this section, we must make a finding that the land acquisition is necessary for successful reclamation and that—

(i) The acquired land will serve recreation, historic, conservation, and reclamation purposes or provide open space benefits after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; and

(ii) Permanent facilities will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. For the purposes of this paragraph, “permanent facility” means any structure that is built, installed, or established to serve a particular purpose or any manipulation or modification of the